

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

LAMONT STANLEY HAMILTON

APPELLANT,

v.

CHERLYN JEAN HAMILTON

RESPONDENT.

DOCKET NUMBER WD71786
**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 15, 2011

Appeal From:

Jackson County Circuit Court
The Honorable Michael W. Manners, Judge

Appellate Judges:

Division One: Thomas H. Newton, P.J., James M. Smart, Jr., and Joseph M. Ellis, JJ.

Attorneys:

Lamont Stanley Hamilton, Sr., Appellant Pro Se, **for appellant.**

James Oliver Swaney, Jr., Independence, MO, **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT**

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APPELLANT,

v.

CHERLYN JEAN HAMILTON,

RESPONDENT.

No. WD71786

Jackson County

Before Division One: Thomas H. Newton, P.J., James M. Smart, Jr., and Joseph M. Ellis, JJ.

Lamont Hamilton ("Lamont") appeals the circuit court's May 11, 2009 judgment vacating the court's April 16, 2008 order, which granted Lamont's motion to quash Cherlyn Hamilton's ("Cherlyn") writ of garnishment. He contends that the trial court erred in denying his motion to quash the garnishment. Cherlyn has filed a motion to dismiss on the basis of irregularities and deficiencies in Lamont's appeal.

DISMISSED.

Division One holds: Under section 512.020, RSMo, and Rule 81.04, a timely notice of appeal must be filed within ten days of a final judgment from the circuit court. The circuit court's May 11, 2009 judgment vacating the order quashing the earlier garnishment became final on June 11, 2009. To file a timely appeal, Lamont's notice of appeal was due on or before June 22, 2009. However, Lamont's notice was not filed until December 2, 2009. Because the May 11, 2009 garnishment is now finalized history, the judgment is no longer subject to challenge and further adjudication. Moreover, Lamont agreed to set aside the April 16, 2008 order in the May 11, 2009 judgment. In addition, even if Lamont intended to challenge the circuit court's November 24, 2009 judgment denying his motion to quash, he failed to mention the judgment in his point relied on, as required in Rule 84.04(d)(1)(A), and has thus failed to preserve any issue with regard to that judgment on appeal. Because no justiciable issue is presented in this appeal, the motion to dismiss is granted.

PER CURIAM

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